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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,518	11/15/2001	Ingo Gasser	2001-1252A	6150
513	7590	11/20/2003	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021			TRAN, HANH VAN	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 11/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/936,518

Applicant(s)

GASSER, INGO

Examiner

Hanh V. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address.

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 8/11/03 & 8/26/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 18-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This Final office action is in response to applicant's amendment filed on 8/11/03 and 8/26/03.

#### *Specification*

2. It is noted that in the amendment dated 8/11/03, applicant stated a substitute specification and abstract was enclosed; however, no copy of the substitute specification and the abstract is currently on file (only the marked-up copy). Applicant is requested to kindly submit another substitute specification and abstract. Any inconvenience is regretted.

#### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 18, 21, 29, 31-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Great Britain 2,245,158 to Tamura in view of USP 4,445,726 to Rock et al.

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Tamura discloses a pull-out guide fitting for a drawer comprising all the elements recited in the above listed claims including a drawer track 7, a support track 3, rolling elements arranged between the tracks, a dampening device including a rotary damper component, a stop 22, a coupling attachment for coupling the drawer track and the support track 3, a control component, a rack having a toothed rack profile 5, a pinion for engaging the rack, a compression spring 20, a fluid damping device including a damping fluid medium *a*. The different being that Tamura does not disclose a center track arranged between the drawer track and the support track, the dampening device being mounted on any one of the tracks, and the stop being mounted on any one of the tracks.

Rock et al teaches the idea of providing a pull-out guide fitting for a drawer comprising a drawer track attached to a drawer, a support track attached to a body sidewall, a center track arranged between the drawer track and the support track, rolling elements arranged between the drawer track, the center track, and the support track in order to allow the drawer to be pulled out of the body of a piece of furniture over its entire length and facilitate the reinsertion of the drawer into the body of the furniture. Therefore, it would have been obvious to modify the structure of Tamura by providing the pull-out guide fitting with a center track arranged between the drawer track and the support track, rolling elements arranged between the drawer track, the center track, and the support track in order to allow the drawer to be pulled out of the body of a piece of furniture over its entire length and facilitate the reinsertion of the drawer into the body of the furniture, as taught by Rock et al, since both teach alternate conventional pull-out guide fitting structure, used for the same intended purpose, thereby providing structure as claimed. In regard to the dampening device being mounted on any one of the tracks, and the stop being

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mounted on any one of the tracks, it would have been obvious to rearrange the dampening device and the stop of Tamura, as modified, such that the dampening device and the stop being mounted to any one of the tracks as claimed, since it is well within the level of one skill in the art to rearrange components from one location to another.

6. Claims 19-20 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tamura, as modified, as applied to claims 18 above, and further in view of EP 556,613 to Migliori.

Tamura, as modified, discloses all the elements as discussed above except for the dampening device comprises a hydraulic damping device a, a linear damping component including a cylinder and a piston.

Migliori discloses a rack and pinion pneumatic actuator with counter-pressure control and damping device in order to control the damping actions, in a controlled manner, in an extremely small space at the approaching end of each working stroke, allowing a low-down to stop and reverse the sliding movement of the rack and piston assemblies. Therefore, it would have been obvious to modify the structure of Tamura, as modified, by providing a rack and pinion pneumatic actuator with counter-pressure control and a linear damping component including a cylinder and a piston damping device in order to control the damping actions, in a controlled manner, in an extremely small space at the approaching end of each working stroke, allowing a low-down to stop and reverse the sliding movement of the rack and piston assemblies, as taught by Migliori, since both teach alternate conventional damping device, thereby providing structure as claimed.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Salice, Fischer et al, Omata, and Williams et al all show structures similar to various elements of applicant's disclosure.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (703) 308-6302. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

HVT *HVT*  
November 16, 2003

LANNA MAI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

*Lanna Mai*